



State of New Jersey

DEPARTMENT OF HEALTH AND SENIOR SERVICES

OFFICE OF EMERGENCY MEDICAL SERVICES

PO BOX 360

TRENTON, N.J. 08625-0360

www.nj.gov/health

RICHARD J. CODEY
Acting Governor

FRED M. JACOBS, M.D., J.D.
Commissioner

October 7, 2005

Mr. Eric Schmidt
LifeStar
Risk Safety Manager
657 Union Blvd
Totowa, New Jersey 07512

Re: **Notice of Proposed Assessment of Penalties:**
Mobility Assistance Vehicle and
Basic Life Support Ambulance Service Provider
Investigation Control #05-B-047

Dear Mr. Schmidt:

The New Jersey Department of Health and Senior Services is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act (N.J.S.A. 26:2H-1, et seq.) which was enacted, in part, to ensure that hospital and related health care services rendered in New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2b, health care services include pre-hospital basic life support ambulance services. In addition, in accordance with §6.4 and §6.6 of the New Jersey Medical Assistance and Health Services Act (N.J.S.A. 30:4D-1 et seq.), this Department is responsible for the development of minimum licensure requirements concerning the equipment, supplies and vehicles of providers of mobility assistance vehicle services.

Furthermore, N.J.S.A. 26:2H-5 grants the Commissioner of Health and Senior Services the power to inquire into health care services and to conduct periodic inspections with respect to the fitness and adequacy of the equipment and personnel employed by those services. As such, in furtherance of each of the aforementioned statutory objectives, the Department of Health and Senior Services (the Department) adopted regulations that govern the licensure and inspection of ambulance and mobility assistance vehicle service providers and their vehicles. Those regulations are set forth in their entirety at N.J.A.C. 8:40-1.1, et seq.

On April 12, 2005, staff of this Department's Office of Emergency Medical Services (OEMS) conducted an unscheduled vehicle inspection of LifeStar's vehicle #19, a mobility assistance vehicle, New Jersey license plate # XB883U at 206 Bloomfield Avenue, in Bloomfield, New Jersey.

The following deficiencies were found:

1. The patient being transported by Lifestar, while in the care of Lifestar personnel, was observed to be transported without being secured with a seatbelt;
2. The driver was unable to operate the wheelchair lift manually as the vehicle did not have the required equipment to operate the lift in the manual mode; and
3. The fire extinguisher and the container, where the reflective triangles are stored, were not stored in a crashworthy manner.

As you should know:

N.J.A.C. 8:40-5.6(c) states, in relevant part: "The seatbelt shall be properly secured on the patient whenever the patient is in the wheelchair and under the care of the crewmembers, including moving the patient in and out of the vehicle, and transferring the patient to his or her destination."

N.J.A.C. 8:40-5.7(c) states: "The lift, as well as any ramp that relies on electric, hydraulic or other power for its operation, shall be capable of manual operation by an unassisted person or there shall be a manually operated backup device. The manual backup device shall be capable of both lifting and lowering the patient and shall perform either function within five minutes."

N.J.A.C. 8:40-4.4(e)7 states: "All equipment and supplies carried on the vehicle shall be stored in a crashworthy manner (that is, they shall remain firmly in place and shall not present a hazard to any vehicle occupant in the event of an accident or sudden change in vehicle speed or direction). There shall be sufficient cabinets and other storage spaces within the vehicle so as to meet this requirement. Crashworthy retention systems shall not incorporate rubber straps, "shock cords" or Velcro [FN®]-type closures."

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:40-7.2(f), violations shall be considered as a single, different occurrence for each calendar day the violation occurs or remains uncorrected. N.J.A.C. 8:40-7.2(e)9 provides for a fine of \$250 per violation per day of any regulation found at N.J.A.C. 8:40-1.1, et seq. Therefore, you are hereby assessed a penalty in the amount of \$250 for failing to utilize a seatbelt to properly secure a patient in the wheelchair and also being assessed a penalty of \$250 for not being able to manually operate the wheelchair lift as listed in violations one and two above.

Furthermore, in accordance with N.J.A.C. 8:40-7.2(c), this letter shall serve as a formal warning for failing to store equipment in a crashworthy manor. In the event of future violations, the Department may seek to impose stricter penalty and/or corrective

actions, such as, but not limited to, a monetary penalty, suspension and/or revocation of Lifestar's provider license.

A certified check or money order in the amount of \$500 made payable to "Treasurer, State of New Jersey" must be submitted within 30 days from the date of this Notice. In accordance with N.J.S.A. 26:2H-16 and N.J.A.C. 8:40-7.2(h), failure to pay this penalty may result in the delinquent account being referred to the Office of the Attorney General for collection (N.J.S.A. 2A:58-1, et seq.), refusal by the Department to issue or renew a license and/or any such other action as authorized by law. Payment should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Emergency Medical Services
P.O. Box 360
Trenton, NJ 08625-0360
Attn: Ms. Karen Halupke

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:40-7.3, you are entitled to a hearing before the Office of Administrative Law to contest this proposed penalty assessment. Your request for a hearing on this matter must be submitted in writing and must be accompanied by a response to the deficiency noted above. In the event that you request a hearing, this penalty shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered.

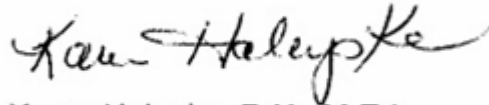
Your request for a hearing must be submitted within 30 days from the date of this Notice, and should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Legal & Regulatory Affairs
P.O. Box 360, Room 805
Trenton, N.J. 08625-0360
Attn: Ms. Michele Stark

Please include control number 05-B-047 on all of your correspondence. **Finally, please note that failure to submit a request for a hearing within 30 days from the date of this Notice shall render this Notice final, and the entire \$500 shall be immediately due and payable.**

If you have any questions concerning this matter, please do not hesitate to contact Mr. Samuel Stewart of my office at (609) 633-7777.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Halupke", written in a cursive style.

Karen Halupke, R.N., M.Ed
Director, Emergency Medical Services

c: Michele Stark, OLRA
David Gruber, Assistant Commissioner
Charles McSweeney, OEMS
Samuel Stewart, Esq., OEMS

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RETURN RECEIPT REQUESTED